



DEPARTMENT OF THE NAVY
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NAVAL CRIMINAL INVESTIGATIVE SERVICE
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SEP 22 2015

MEMORANDUM

From: Director, Naval Criminal Investigative Service (NCIS), FOIA Coordinator
To: Office of the Judge Advocate General, General Litigation Division, Code 14

Subj: FREEDOM OF INFORMATION ACT (FOIA) APPEAL ICO MR. JASON MANNE;
APPEAL NUMBER DON-NAVY-2015-009361

Ref: (a) SECNAV memo "Consolidating Freedom of Information Act Requests Relating to the Investigation of Glenn Defense Marine Asia and Associated Accountability Actions" dated 02Mar15.
(b) NCIS response letter dated 15Jul15

Encl: (1) Correspondence with Department of the Navy (DON) commands and the Department of Justice (DOJ)
(2) Censure letter with comments

1. Per reference (a), on March 2, 2015 NCIS was charged with the processing of all FOIA requests received by the DON relating to GDMA and accountability actions. Reference (b) details our coordination with other components within the DON and the DOJ.
2. As requested, enclosures (1) and (2) are provided to assist in the processing of the subject's appeal. Exemptions claimed are pursuant to 5 U.S.C. § 552 (b)(7)(E) and (b)(A).
3. Exemption (b)(7)(E); the redacted material disclosed techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. In addition, (b)(7)(A) was applied to protect information which "could reasonably be expected to interfere with" enforcement proceedings. The information is currently exempt from disclosure under 5 U.S.C. Section 552 (the Freedom of Information Act) at subsection (b)(7)(A). Pursuant to (b)(7)(A) and relevant case law, this exemption applies because: (1) law enforcement proceedings are pending or prospective; and (2) release of the information could reasonably be expected to cause some articulable harm.
4. Additionally, at the time of Mr. Manne's April 12, 2015 FOIA request a retirement determination regarding VADM Miller had not been made. Our office advised Mr. Manne (noted in reference (b)), that he was welcome to submit another FOIA request once the determination had been completed. Although Mr. Manne's request was ultimately denied as "no responsive records", as a courtesy, and prior to the release of reference (b), our office contacted

the Judge Advocate General, legal counsel to the Vice Chief of Naval Operations, seeking the status of VADM Miller's retirement determination. As of July 1, 2015 the determination had not been made. All steps to procure this information prior to our July 15, 2015 release were exhausted.

5. No additional correspondence occurred between our office and Mr. Manne. The point of contact for this appeal is, (b) (6) who can be reached at (b) (6) or via email at (b) (6)@ncis.navy.mil.

(b) (6)
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CDR(S), JAGC, USN